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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,143	10/26/2001	Holger Warth	Mo-6716 LeA 34,676	1812
157	7590	04/01/2004	EXAMINER	
BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			VOON, TAE H	
		ART UNIT		PAPER NUMBER
		1714		

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/033,143	WARTH ET AL.
	Examiner Tae H Yoon	Art Unit 1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 January 2004.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The recited "substituted" in line 3 of claim 7 is non-enabling absent particular constituents or functional groups recited in the specification. Cancellation of said "substituted" is needed if the specification does not teach such constituents or functional groups.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited "AES" in line 1 of claim 1 is indefinite and a full chemical name is needed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al (US 6,111,016).

Katayama et al teach phosphorous-containing flame retardant polycarbonate compositions containing an elastomer and a thermoplastic or a mixture of thermoplastics and molded articles thereof in abstract and examples. The utilization of thermoplastics such as rubber-containing polymers is taught at col. 9, lines 4-11. The instant AES graft polymer is taught at col. 12, lines 41-42 and 56-62. A rubber or rubber-like polymer grafted with styrene is taught as a preferred one (lines 56-62) and AES resin (acrylonitrile-ethylene propylene rubber-styrene copolymer (lines 41-42) meets this. Katayama et al also teach employing processing aids such as polyolefin wax (aliphatic hydrocarbons) or stearic acid triglyceride and mineral filler at col. 17, line 60 to col. 18, line 24. The amount of processing aids taught at col. 20, lines 4-9 would yield the instant increased "Δsoft phase" value.

Limitations of claims 4-5 are optional when said claims are combined with claim 1.

It would have been obvious to one skilled in the art at the time of invention to utilize the AES graft polymer and polyolefin wax or triglyceride in examples of Katayama et al since Katayama et al teach such modification absent showing otherwise.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al (US 6,111,016) in view of Dalal et al (US 5,534,379), Nodera (US 6,348,527) or WO 02/32993.

The instant invention further recites a weight average molecular weight of the hydrocarbon and unsaturated hydrocarbon over Katayama et al. However, polyolefin

wax having the instant molecular weight is well known in the art as taught by Dalal et al (col. 7, line 65 to col. 8, line 1) and Nodera (col. 6, lines 5-20). WO 02/32993 teach the use of polybutene processing oil in abstract and table 1.

It would have been obvious to one skilled in the art at the time of invention to utilize polyolefin wax having the instant molecular weight of Dalal et al or Nodera, or polybutene processing oil of WO in examples of Katayama et al since aliphatic hydrocarbons of Katayama et al encompass said polybutene processing oil and since the use of polyolefin wax having the instant molecular weight is a routine practice in the art absent showing otherwise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tae H Yoon  
Primary Examiner  
Art Unit 1714

THY/March 16, 2004